

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application

Applicants: J. Boer et al.

Case: 6-2-2-5

Serial No.: 10/621,862

Filing Date: July 17, 2003

Art Unit: 2611

Examiner: Leila Malek

Title: Signal Quality Estimation in a
Wireless Communication System

ATTORNEY AFFIDAVIT

I, the undersigned, hereby declare and state as follows:

1. I worked under the supervision of Wayne L. Ellenbogen, Esq. (Reg. No. 43,602) to prepare the Declaration of Prior Invention submitted on December 13, 2007 (hereinafter "Declaration"), in the above-identified application.
2. At the time that the Declaration was prepared and submitted, none of the four inventors of the above-referenced patent application were employed by the assignee or a related entity. Moreover, none of the four inventors lived within the United States.
3. On or about October 23, 2007, I sent an electronic mail message requesting current contact information for inventor Ra'anan Gil. A copy of this electronic mail message is attached hereto as Exhibit 1.
4. On or about October 24, 2007, I received an electronic mail message including current contact information for inventor Ra'anan Gil. A copy of this electronic mail message is attached hereto as Exhibit 2.

5. On or about October 24, 2007, I sent an electronic mail message to inventors, including Ra'an Gil, requesting assistance in preparing the Declaration. A copy of this electronic mail message is attached hereto as Exhibit 3.

6. On or about November 8, 2007, I sent an electronic mail message to inventors, including Ra'an Gil, requesting assistance in preparing the Declaration. A copy of this electronic mail message is attached hereto as Exhibit 4.

7. On or about November 19, 2007, I sent an electronic mail message to inventors, including Ra'an Gil, requesting that they sign the Declaration. A copy of this electronic mail message is attached hereto as Exhibit 5.

8. On or about November 21, 2007, I sent an electronic mail message to inventors, including Ra'an Gil, requesting that they sign the Declaration. A copy of this electronic mail message is attached hereto as Exhibit 6.

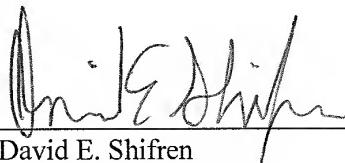
9. On or about November 26, 2007, I sent an electronic mail message to inventor Ra'an Gil requesting that he sign the Declaration. A copy of this electronic mail message is attached hereto as Exhibit 7.

10. I have not received any indication that any of the five electronic mail messages addressed to Ra'an Gil and attached hereto as Exhibits 3-7 was not delivered to Ra'an Gil, nor have I received any response from Ra'an Gil to the five electronic mail messages addressed to Ra'an Gil and attached hereto as Exhibits 3-7.

11. All statements made herein of my own knowledge are true, and all statements made on information and belief are believed to be true.

12. I understand that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and may jeopardize the validity of the application or any patent issuing thereon.

Date: 6/4/08



David E. Shifren
Attorney for Applicant(s)
Reg. No. 59,329
Ryan, Mason & Lewis, LLP
90 Forest Avenue
Locust Valley, NY 11560
(516) 759-2641

EXHIBIT 1

David E. Shifren

From: David Shifren
Sent: Tuesday, October 23, 2007 3:56 PM
To: 'janboer@motorola.com'; 'bas.driesen@philips.com'
Cc: Wayne L. Ellenbogen
Subject: Patent applications
Sensitivity: Confidential
Attachments: Boer_AFF.pdf; Boer5.pdf; Boer6.pdf

Gentlemen,

I'm assisting Wayne Ellenbogen in prosecuting two patent applications based on work you did for Agere (I've attached them as Boer5.pdf and Boer6.pdf). I believe that we may be entitled to "swear behind" some references (none of which are assigned to your present employers) based on Agere ASIC Team Design Note WADN129, Revision C ("Exhibit 1" of Boer_AFF.pdf), which I understand shows results obtained from a simulation of the claimed inventions.

Two questions:

- 1) Assuming that this document does in fact disclose the claimed inventions, do you have an earlier revision (e.g., Revision A) that might show similar experimental results but with an earlier date?
- 2) Do you have contact information (preferably e-mails) for Ra'anan Gil and Kaj Kriedte?

Thank you very much for your help.

David E. Shifren, Esq.
USPTO Reg. No. 59,329
Ryan, Mason & Lewis, LLP
90 Forest Avenue
Locust Valley, NY 11560
Telephone: 516-759-2641
Fax: 516-759-9512
E-mail: des@rml-law.com

CONFIDENTIALITY NOTICE

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EXHIBIT 2

David E. Shifren

From: Boer Jan-ajb116 [janboer@motorola.com]
Sent: Wednesday, October 24, 2007 3:51 AM
To: David Shifren; bas.driesen@philips.com
Cc: Wayne L. Ellenbogen
Subject: RE: Patent applications
Sensitivity: Confidential

David,
I only have revision C.
Contact information:
kriedte@motorola.com
vr_gil@netvision.net.il
Regards,
Jan Boer

From: David Shifren [mailto:des@rml-law.com]
Sent: Tuesday, October 23, 2007 9:56 PM
To: Boer Jan-ajb116; bas.driesen@philips.com
Cc: Wayne L. Ellenbogen
Subject: Patent applications
Sensitivity: Confidential

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E-mail: des@rml-law.com

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EXHIBIT 3

David E. Shifren

From: David Shifren
Sent: Wednesday, October 24, 2007 9:56 AM
To: 'Boer Jan-ajb116'; bas.driesen@philips.com; 'kriedte@motorola.com'; 'vr_gil@netvision.net.il'
Cc: Wayne L. Ellenbogen
Subject: Patent applications
Sensitivity: Confidential
Attachments: Boer_AFF.pdf; Boer5.pdf; Boer6.pdf

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EXHIBIT 4

David E. Shifren

From: David Shifren
Sent: Thursday, November 08, 2007 10:51 AM
To: 'Boer Jan-ajb116'; 'bas.driesen@philips.com'; 'kriedte@motorola.com'; 'vr_gil@netvision.net.il'
Cc: Wayne L. Ellenbogen
Subject: RE: Patent applications
Sensitivity: Confidential

Gentlemen,

Have any of you had a chance to work on the matter noted below? Thank you.

David E. Shifren, Esq.
USPTO Reg. No. 59,329
Ryan, Mason & Lewis, LLP
90 Forest Avenue
Locust Valley, NY 11560
Telephone: 516-759-2641
Fax: 516-759-9512
E-mail: des@rml-law.com

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Cc: Wayne L. Ellenbogen
Subject: Patent applications
Sensitivity: Confidential

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EXHIBIT 5

David E. Shifren

From: David Shifren
Sent: Monday, November 19, 2007 4:32 PM
To: 'Boer Jan-ajb116'; 'bas.driesen@philips.com'; 'kriedte@motorola.com'; 'vr_gil@netvision.net.il'
Cc: Wayne L. Ellenbogen
Subject: RE: Patent applications
Sensitivity: Confidential
Attachments: Boer_AFF.pdf; Boer5.pdf; Boer6.pdf

We need to prepare and file the below-referenced affidavit as soon as possible, and no later than Thursday, November 29. In order to give us ample time to prepare the affidavit (and for you to sign it), could you please research the matters referenced below no later than Monday? I've attached copies of the cited documents. Thank you very much. To reiterate:

I'm assisting Wayne Ellenbogen in prosecuting two patent applications based on work you did for Agere (I've attached these applications as Boer5.pdf and Boer6.pdf). I believe that we may be entitled to "swear behind" some references (none of which are assigned to your present employers) based on Agere ASIC Team Design Note WADN129, Revision C ("Exhibit 1" of Boer_AFF.pdf), which I understand shows results obtained from a simulation of the claimed inventions.

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E-mail: des@rml-law.com

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Sent: Thursday, November 08, 2007 10:51 AM
To: 'Boer Jan-ajb116'; 'bas.driesen@philips.com'; 'kriedte@motorola.com'; 'vr_gil@netvision.net.il'
Cc: Wayne L. Ellenbogen
Subject: RE: Patent applications
Sensitivity: Confidential

Gentlemen,

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Sent: Wednesday, October 24, 2007 9:56 AM

To: 'Boer Jan-ajb116'; bas.driesen@philips.com; 'kriedte@motorola.com'; 'vr_gil@netvision.net.il'

Cc: Wayne L. Ellenbogen

Subject: Patent applications

Sensitivity: Confidential

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- 2) Do you have an earlier revision (e.g., Revision A) that might show similar experimental results but with an earlier date?

Thank you very much for your help.

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message. Thank you.

EXHIBIT 6

David E. Shifren

From: David Shifren
Sent: Wednesday, November 21, 2007 11:04 AM
To: 'bas.driesen@philips.com'; 'vr_gil@netvision.net.il'
Subject: Affidavits
Importance: High
Sensitivity: Confidential
Attachments: Boer_AFF.pdf

As you can see below, Jan and Kai have already signed and returned their affidavits. Could each of you please sign and return the attached affidavits? Please either fax them or email them to me, then mail me the original signatures. If you submit receipts, we can reimburse you for any expenses you incur (e.g., fax charges or postage). Thank you very much.

Also, please note that, as discussed below, not only are you legally obligated to sign these affidavits pursuant to an agreement with Agere which is still in force, but that signing these affidavits will help expedite allowance of these patents in your names, which I assume will have professional benefits. Thank you very much for your help.

David E. Shifren, Esq.
USPTO Reg. No. 59,329
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90 Forest Avenue
Locust Valley, NY 11560
Telephone: 516-759-2641
Fax: 516-759-9512
E-mail: des@rml-law.com

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From: Boer Jan-ajb116 [mailto:janboer@motorola.com]
Sent: Wednesday, November 21, 2007 10:06 AM
To: David Shifren
Cc: Wayne L. Ellenbogen
Subject: RE: Patent applications
Sensitivity: Confidential

Thanks David.
You are very convincing.
I have faxed the affidavits, signed by Kai Kriedte and myself.
Best regards,
Jan Boer

From: David Shifren [mailto:des@rml-law.com]
Sent: Tuesday, November 20, 2007 4:36 PM

EXHIBIT 7

David E. Shifren

From: David Shifren
Sent: Monday, November 26, 2007 3:50 PM
To: 'vr_gil@netvision.net.il'
Subject: FW: Affidavits
Importance: High
Sensitivity: Confidential
Attachments: Boer_AFF.pdf

Ra'anan,

I have now received signed affidavits from all of your co-inventors.

If you have any questions or concerns regarding these affidavits, please let me know. Otherwise, I hope to receive your signed affidavit at your earliest convenience, but no later than Wednesday.

As I've previously noted, you are under a legal obligation to sign these affidavits. Thank you very much.

Best regards,

David E. Shifren, Esq.
USPTO Reg. No. 59,329
Ryan, Mason & Lewis, LLP
90 Forest Avenue
Locust Valley, NY 11560
Telephone: 516-759-2641
Fax: 516-759-9512
E-mail: des@rml-law.com

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From: Bas Driesen [mailto:bas.driesen@philips.com]
Sent: Thursday, November 22, 2007 10:16 AM
To: David Shifren
Subject: Re: Affidavits

David,

Here is the requested.
I am sending a paper copy per mail today.

Regards,
Bas